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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th Day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIAH

WRIT PETITION NO. 1689/1997

Between:

Janab S. Mahammad,
aged 69 years,
S/o. Ummare Beary,
Saravu, Kodapadavu,
Veerakambha Village,
Bantwal Tq, D.K.

...PETITIONER

(By Sri. Ishwara Bhat P., Adv.)

And:

1. The State,
represented by its
Secretary, Dept. of
Rural development and
Panchayath Raj,
M.S. Building,
Bangalore.
2. The Secretary,
Veerakambha Gram
Panchayat, Bantwal Tq., D.K.
3. The Asst. Commissioner,
Mangalore, D.K.

...RESPONDENTS

(By Sri. A. Nagaraja, HCGP for R-1 & R-3,
Sri. K. R. Subramanya Rao, Adv. for R-2)

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This writ Petition is filed under Articles
226 and 227 of the Constitution of India with a

prayer to quash vide Annexure-A dated 17.4.1996, vide Annexure-B dated 26.5.95 and vide Annexure-C dated 30.12.96 by R-3.

This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

O_R_D_E_R

The petitioner is the owner of the Land bearing No.213/1B1. It is submitted by the learned Counsel for the petitioner that he constructed a building on the said land in the year 1965, after obtaining necessary licence from the Grama Panchayath. But the Grama Panchayath without stating in which year the petitioner has constructed the building, proceeded to pass an order levying the penalty of Rs.500/- on the ground that he has constructed the building without obtaining necessary licence. As against this order, the petitioner preferred an appeal before the Assistant Commissioner.



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2. The Assistant Commissioner dismissed the appeal confirming the order of the Grama Panchayath. These orders are under challenge. The Grama Panchayath in order to levy the penalty has to say in which year the petitioner has constructed the building without obtaining necessary licence as required under the act and the rules which were in force. From the notice issued by the Grama Panchayath and from the order of the Assistant Commissioner, I do not find in which year the petitioner has constructed the building without obtaining necessary licence as required under the act and the rules which were in force, ^{as on that day} ~~From~~ ~~the notice issued by the Grama Panchayath and from the order of the Assistant Commissioner, I do not find in which year the petitioner has constructed the building so as to say that the said construction is contrary to the provisions of law which were in force as on that day.~~ However, the learned Counsel

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for the Grama Panchayath submitted that, the licence produced by the petitioner in respect of two buildings have nothing to do with the building said to have been existing in Sy.No.213/1B1. This aspect also has not been considered by the Assistant Commissioner in the appeal filed by the petitioner. Therefore, in my opinion, the matter requires re-consideration by the Grama Panchayath itself. In the result, I pass the following order.

3. The Writ Petition is allowed. The order of the Grama Panchayath, Annexure-B and ~~that of~~ the order of the Assistant Commissioner as per Annexure 'C' are quashed. The matter is remitted to the Grama Panchayath to re-consider afresh after due notice to the petitioner.

Sd/-
JUDGE



sps/*